

**Authorized by the United States District Court for the
Eastern District of Pennsylvania**

NOTICE OF CLASS ACTION SETTLEMENT

To: Persons Charged in Connection with Certain Telemarketing Transactions

This notice is to inform you of a hearing about an agreement to settle a class action lawsuit. The lawsuit is about Wachovia Bank's account relationships with payment processors that transacted business with telemarketers, who allegedly engaged in illegal telemarketing practices.

What is this case about?

Certain telemarketers, alleged by the plaintiffs to be fraudulent, obtained bank account information from customers like you during the course of their telemarketing calls. This bank account information was provided to companies called "third-party payment processors," which used this bank account information to create unsigned checks in the names of the consumers who were contacted. The complaints allege that Wachovia opened bank accounts for these payment processors through which Wachovia would accept for deposit the unsigned checks that originated from telemarketers. The two actions (*Faloney v. Wachovia Bank*, No. 07-1455, and *Harrison v. Wachovia Bank*, No. 08-755) allege that Wachovia violated 28 U.S.C. § 1962, part of what is commonly known as the "RICO Act." More information, including the list of telemarketers and payment processors known to be at issue in this case, is available at www.restitutionpayment.com.

Why am I receiving this notice?

Your name appeared on a list of people who had money debited from their bank account by one of these unsigned checks. Most likely, a telemarketer obtained your bank account information from you during a telephone call sometime between 2003 and 2007. You do not need to remember the details of any such call, nor do you need to remember the amount of money debited from your account. Because you are on the list of customers assembled in this case, you are entitled to receive benefits under this settlement.

How did this settlement come about?

This settlement is the result of a coordinated effort to resolve the class action litigation against Wachovia along with several government enforcement actions that were filed against the telemarketers, the payment processors, and Wachovia. The Office of the Comptroller of the Currency of the United States ("OCC"), the bank regulator that oversees Wachovia's banking operations, brought a separate enforcement action against Wachovia for violations of banking laws. The United States Federal Trade Commission and certain state governments have brought a number of different actions targeted against certain telemarketers and payment processors. The United States Attorney for the Eastern District of Pennsylvania brought a civil enforcement action against one of the payment processors known as "Payment Processing Center."

The settlement of this lawsuit has been reached in conjunction with resolution of the OCC enforcement action and the United States Attorney's action against Payment Processing Center.

What is this settlement?

The settlement is intended to reimburse you and other class members for the losses you incurred as a result of the telemarketing activity described herein. This reimbursement has two separate components: (1) refunding the money that was debited from your account through a transaction initiated by one of the payment processors, and (2) refunding any bank fees that resulted from these transactions.

First, this settlement incorporates the settlement of the OCC action against Wachovia, which requires that Wachovia mail checks for the full amount of the money debited from customers' bank accounts that have not been previously reimbursed. This portion of the settlement is represented by the enclosed check and does not require you to file a claim form. You may deposit that check without condition.

Second, under this settlement, Wachovia will pay the full amount of any unreimbursed bank fees that any class member can show were caused by the telemarketing transactions that are the subject of these actions. At a minimum, Wachovia will pay \$35—the amount of one typical bank fee—to any class member who does not provide documentation of bank fees, but who affirms that he or she paid at least one bank fee that would not have been assessed if the telemarketing transaction had not occurred. To receive restitution under the bank-fee part of the settlement, you must complete and submit the enclosed claim form by the deadline indicated on the form. If you incurred fees greater than \$35, you may file a more detailed claim as described below, to obtain a refund of all bank fees caused by the telemarketing transactions.

The plaintiffs also will ask for up to \$10,000 for each named plaintiff for their efforts on behalf of the classes, and a fee for class counsel that will be paid in addition to the full value of all claims filed.

Do I need to hire a lawyer?

The Court has appointed the law firm Langer, Grogan & Diver, P.C., 1717 Arch Street, Suite 4130, Philadelphia, Pennsylvania, 19103, as class counsel to represent you in this action. You do not have to hire your own lawyer. But you may do so if you wish, at your own expense.

What are my options?

You should deposit the check you have received with this notice no matter which of the following options you choose. With respect to the bank-fee refund program, you may:

- 1. Ask for a refund of bank fees.** Use the attached claim form to seek a refund. The amount of your refund will be \$35 if you seek an Easy Refund, which requires no documentation. If you provide appropriate documentation, you may obtain a Documented Refund of all fees charged.
- 2. Exclude yourself** from the settlement class by sending a letter to P.O. Box 37765, Philadelphia, PA 19101-7765. Any such letter must be postmarked no later than January 12, 2009. You must include your full name, your settlement ID as printed on the letter enclosed with this notice, and your full address. You must also affirm that you have informed all joint account holders of your intention to opt out and that no joint account holder objects to the exclusion. If you opt out of the class, you will get no money for bank fees from this settlement. Opting out will not affect your right to receive and deposit any direct payment for the telemarketing transactions at issue in this case. If you received a direct payment, you should deposit that check even if you choose to opt out from the bank fee portion of this action.
- 3. Object** to the settlement by filing your objection and proof of class membership with the Court on or before January 12, 2009, and include the name and number of the case. You must also send the objection to the attorneys for the class at the same time by hand, overnight mail, or by certified mail, return receipt requested. The final approval hearing will be held on January 22, 2009, in Courtroom 3-G, at the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, PA 19106. The time and date may change without further notice to you. You do not have to go to Court or hire an attorney, but you may do so, at your own cost. The hearing is to decide whether to approve the settlement, class counsel's request for attorneys' fees and expenses, and awards for the class representatives.
- 4. Do nothing further** if you did not have any bank fees assessed against your account.

How will the attorneys be paid?

The lawyers for the class will seek, and Wachovia has agreed to pay, subject to Court approval, \$15,000,000 for attorneys' fees for investigating the facts, litigating this case, resolving the case by negotiating this settlement, and contributing substantially to the outcome of the OCC enforcement action against Wachovia, which will result in approximately \$163,000,000 in checks mailed directly to class members. The fee sought by class counsel is in addition to the recovery to the class and will not limit or reduce the size of the fund available to compensate class members under the terms of this settlement, and will not prevent any class member from recovering 100% of the money debited from their bank accounts through the telemarketing transactions and 100% of the bank fees he or she can show were caused by a telemarketing transaction.

Release of claims and binding effect of the settlement.

If the settlement is finally approved by the Court and you are a member of the settlement class and do not opt out, you will be bound by the settlement. If you are bound by the settlement, you will release all claims, known and unknown, against Wachovia, including its officers, directors, employees, agents, stockholders, attorneys, representatives, parents, subsidiaries, and affiliates, concerning Wachovia's processing of unsigned checks by the covered payment processors. These releases are specified in more detail in the settlement agreement. More information about the claims released by this settlement, including the settlement agreement and a list of payment processors and telemarketers, is available at www.restitutionpayment.com.

How do I get more information?

This notice is only a summary. To see the settlement agreement, court orders, and other documents related to this lawsuit, and for more information, go to: www.restitutionpayment.com, or call 1-866-680-6659. You can also obtain documents from the Court Clerk's Office at the United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania, 19106.

Clerk, United States District Court for the Eastern District of Pennsylvania